

Article 3.—CREDIT UNION SERVICES ORGANIZATION (CUSO)

121-3-1. Credit Union Services Organization (CUSO). (a) Organization. A credit union may invest in or loan to a CUSO only if the CUSO is structured as a corporation or limited liability company and operated as a separate legal entity.

(b) Member base. A credit union may invest in or loan to a CUSO if:

(1) the CUSO only engages in permissible services and activities which are primarily provided to the investing or lending credit union and the lending credit union's members as well as other credit unions and their members;

(2) the CUSO does not engage in activities prohibited by subsections (d) or (e) of this regulation and

(3) the CUSO complies with subsections (f) and (h) of this regulation.

(c) Permissible services and activities. A credit union may invest in or loan to those CUSO's that provide one or more of the following services and activities:

(1) Financial services which shall include the following:

(A) financial planning and counseling;

(B) retirement counseling;

(C) investment counseling;

(D) securities brokerage services;

(E) estate planning;

(F) income tax preparation;

(G) acting as administrator for prepaid legal service plans;

(H) developing and administering individual retirement accounts, deferred compensation or other personnel benefit plans;

(I) acting as trustee, guardian, conservator, estate administrator, or any other fiduciary capacity; and

(J) agent for sale of insurance;

(2) Operational services which shall include the following:

(A) Credit card and debit card services;

(B) check cashing and wire transfers;

(C) internal audits for credit unions;

(D) automated teller services;

(E) electronic fund transfer services;

(F) accounting services;

(G) data processing;

(H) shared credit union service center operations;

(I) management, development, sale or lease of fixed assets;

(J) sale, lease or servicing of computer hardware or software;

(K) management and personnel training and support;

(L) payment item processing;

(M) marketing services;

(N) research services;

(O) record retention and storage;

(P) credit union business operations recovery services;

(Q) debt collection services;

(R) credit analysis;

(S) loan processing, servicing and sales;

(T) coin and currency services; and

(U) provision of forms and supplies.

A CUSO shall comply with applicable federal, state and local laws when engaging in any of the above activities or services. Any service or activity that is not authorized in (c)(1) or (c)(2) shall be approved by the administrator, Kansas department of credit unions, before a CUSO may offer that service or activity. Any request for approval shall include a full explanation of the proposed service or activity and how that service or activity is associated with routine credit union operations.

(d) Prohibited activities. A credit union shall not invest in or make loans to a CUSO, which has acquired control, directly or indirectly, of another financial institution or which has invested in shares, stocks or obligations of an insurance company, trade association, liquidity facility or similar organization. The credit union shall not engage in any activity, contract for, or enter into any form or manner of arrangement with a CUSO that would cause the credit union to be committed or liable for an amount in excess of its investment in or loan to the CUSO.

(e) Conflict of interest. Individuals who serve as officials of, or senior management employees of, a credit union which invests in or makes loans to a CUSO, and immediate family members of such individuals, shall not receive any salary, commission, investment income, or other income or compensation from a CUSO either directly or indirectly, or from any person being served through the CUSO. This provision does not prohibit an official or senior management employee of a credit union from assisting in the operation of a CUSO, provided the individual is not compensated by the CUSO. However, the credit union may be reimbursed by the CUSO for the services provided by the individual.

(1) The prohibition contained in (e) also applies to any employee not otherwise covered if the employee is directly involved in dealing with the CUSO unless the board of directors determines that the employee's position does not present a conflict of interest.

(2) All transactions with business associates or family members not specifically prohibited by (e) shall be conducted at arm's length and in the interest of the credit union.

(f) Accounting procedures. Credit unions shall follow generally accepted accounting principles (GAAP) to record any investment in, loan to, or other transactions with a CUSO. A CUSO shall agree in writing with its participating credit unions to follow generally accepted accounting principles (GAAP).

(g) Financial statements. Credit unions shall obtain from any CUSO for which the credit union has an outstanding loan or investment:

(1) a certified public accountant opinion audit on at least an annual basis;

(2) monthly financial statements including a balance sheet and income statement.

(h) Access to records. A credit union shall not invest in or make loans to a CUSO which has not agreed, in writing, with that credit union to provide representatives of the Kansas department of credit unions with complete access to any of the books and records of the CUSO as the administrator may request.

(i) Compliance date. Each credit union that has an investment in or loan to a CUSO on or after the effective date of this regulation shall comply with the provisions of this regulation not later than one year after the effective date of this regulation. (Authorized by and implementing K.S.A. 17-2204a as amended by 1996 SB 434, Sec. 1; effective Oct. 11, 1996.)